

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) No. 19 CR 00277  
 )  
CONCEPCION MALINEK, ) Chicago, Illinois  
 ) April 19, 2021  
Defendant. ) 1:05 p.m.

TRANSCRIPT OF PROCEEDINGS - Sentencing  
Volume 2  
BEFORE THE HONORABLE EDMOND E. CHANG

APPEARANCES:

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ALSO PRESENT: MR. JORGE CARBAJOSA and  
MR. ROBERT MENDOZA,  
Court Interpreters

ALSO PRESENT VIA VIDEOCONFERENCE:  
MS. LISA RUIZ,  
United States Probation Office

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1 (Proceedings heard in open court:)

2 THE CLERK: 19 CR 277, USA versus Concepcion Malinek.

3 THE COURT: All right. Good afternoon, everyone. If  
4 I could get appearances from the government.

5 MR. PARENTE: Good afternoon, your Honor. Chris  
6 Parente for the United States.

7 THE COURT: And defense counsel?

8 MR. RASCIA: Good afternoon, your Honor. Robert  
9 Rascia and Liam Kelly for Ms. Malinek.

10 THE COURT: All right. Good afternoon.  
11 And I think we have some interpreters to put on the  
12 record.

13 INTERPRETER CARBAJOSA: Good afternoon, your Honor.  
14 Jorge Carbajosa, certified Spanish interpreter, present.

15 INTERPRETER MENDOZA: Good afternoon, your Honor.  
16 Roberto Mendoza, Spanish court interpreter.

17 THE COURT: Good afternoon to you as well.

18 Okay. I just want to also make a record that we are  
19 on videoconference as well. I think we're still accommodating  
20 some of the victims.

21 Defense counsel, do you have anyone appearing by  
22 video?

23 MR. RASCIA: I do not, your Honor.

24 THE COURT: All right. Very good.

25 Okay. We are ready to resume the sentencing. I

1 believe --

2 THE CLERK: Probation is by video.

3 THE COURT: Oh, I'm sorry. That's right. So the  
4 probation office is appearing remotely, so if I can get the  
5 appearance from the probation office.

6 THE PROBATION OFFICER: Good afternoon, your Honor.  
7 Lisa Ruiz on behalf of the probation office.

8 THE COURT: Okay. Good afternoon, Ms. Ruiz.

9 All right. We were in the midst of the government's  
10 3553 presentation. And in particular I believe, Mr. Parente,  
11 when we adjourned last, you had made your way partway through  
12 the reading of the statement, victim impact statement of  
13 Victim No. 9.

14 I think just for the clarity of the record, why don't  
15 you go ahead and start from the beginning of that statement.  
16 And then I believe that was the last statement you were going  
17 to read. Is that correct?

18 MR. PARENTE: That's correct, your Honor.

19 THE COURT: All right. So go ahead, Mr. Parente.

20 MR. PARENTE: Thank you, your Honor. And your Honor  
21 is correct, this is Victim No. 9 who is the spouse of Victim 8  
22 that the Court previously heard from at our last hearing.

23 "I was born in Fray Bartolomé de las Casas,  
24 Guatemala. I have been in a committed relationship with  
25 another person who lived in Malinek's house, and we have

1 two children together.

2 "I remember all of the bad moments. I experienced a  
3 great amount of humiliation, but I experienced even more  
4 threats. Malinek also deprived us of our rights as  
5 people. There are times in which my family and I  
6 remember everything that we experienced with Malinek and  
7 all of those devastating moments. My family and I  
8 continue to fight in order to forget so many depressing  
9 things and threats. I am terrified to give my statement,  
10 but I know it is important that the truth be told and be  
11 known.

12 "My family and I were affected tremendously by being  
13 victims of trafficking because we never thought that we  
14 would have experienced all of that suffering that  
15 Ms. Malinek caused us. Since we were rescued, little by  
16 little we have been trying to forget the horrible  
17 treatment by Malinek.

18 "The most difficult and unforgettable moments that do  
19 not allow me to live in peace are the insults and yelling  
20 by Malinek and the suffering we endured during our time  
21 with her, all of which has left us traumatized. My  
22 family and I always wanted to leave her, but Malinek  
23 always found a way to intimidate us. She would threaten  
24 us with having us deported if we did not pay the amount  
25 of money she demanded. She would even threaten us

1        calling -- with calling immigration authorities. It was  
2        because of this fear that Malinek instilled in us that we  
3        could not ever leave her.

4                "Ms. Malinek forced us to pay whatever amount she  
5        demanded, but it was an impossible task to do with the  
6        little money we earned. Malinek charged us so much, and  
7        we had to pay her. It was devastating and difficult for  
8        my family and me because we would be left with no money  
9        to buy our food at the end of the month. Even then,  
10       Malinek kept increasing our rent amount. With the  
11       increases, there were times where we did not have enough  
12       to pay, and she would threaten us with throwing our  
13       things in the garbage. I was devastated when this  
14       happened.

15               "Malinek abused us every day especially verbally.  
16       She would rush us out of the house to work using  
17       derogatory language, and she always threatened us in  
18       order to obligate us to pay her and endure so many cruel  
19       acts.

20               "Malinek kept us all in her basement where we had no  
21       privacy. When we arrived from work, it was very  
22       difficult to shower because there were so many of us.  
23       For that same reason, the bathroom was always in use. It  
24       was devastating and traumatizing to be forced to live in  
25       those conditions every day because of Malinek.

1            "One of the most devastating moments was when my son  
2            had an injury. My son was injured by boiling water on  
3            his head. My partner and I wanted to take him to a  
4            clinic or a hospital, but Malinek told us not to go. She  
5            told us that if we went, we would go to jail or be  
6            deported. She said that our son would be taken from us,  
7            and he would stay here with her. That was how she always  
8            intimidated us and kept us with her. I did not know what  
9            to do because it crushed my heart to see my son's wound,  
10           but I was more scared to disobey Malinek. I was scared  
11           to lose my son.

12           "Now my family and I continue to be unable to  
13           fight -- forget what we suffered through with Malinek.  
14           We suffered greatly with her. Ever since we were  
15           rescued, it has been difficult for me to get back to my  
16           normal life. It has been difficult for me to enjoy any  
17           activity. For example, our trips to the park are  
18           difficult because we couldn't do that when we lived with  
19           Malinek, and the difference makes us think about the  
20           malice that Malinek brought to our lives.

21           "We also are fearful to run into anyone that might  
22           know her. We are very isolated and alone because  
23           everyone has an opinion about what happened, and we get  
24           blamed like what Malinek did to us is our fault. It  
25           makes me so upset. It is difficult to feel joy without

1 thinking about the suffering that Malinek caused us.

2 "We also carry with us hope that we will no longer  
3 suffer because we know that we can count on the support  
4 of the authorities, the attorneys, and the agents of the  
5 FBI. Thanks to them, we are no longer with Malinek and  
6 at her house where we suffered many things."

7 THE COURT: All right. If that's the last statement,  
8 then you can move on to your presentation.

9 MR. PARENTE: Thank you, your Honor.

10 Your Honor, for over ten years, this defendant,  
11 Ms. Malinek, used both the hope and the fears of desperate  
12 human beings, hopes and fears that this defendant knew all too  
13 well, and she weaponized those hopes and fears and used them  
14 to exploit women, children, and men for her own personal  
15 profit. Quite simply, your Honor, this defendant trafficked  
16 in human beings.

17 The government is requesting your Honor to sentence  
18 Ms. Malinek to 97 months' imprisonment for this abhorrent  
19 criminal conduct. The government believes that 97 months is  
20 appropriate when this Court considers the 3553(a) factors,  
21 most notably the seriousness of the offense, deterrence of  
22 others, the history and characteristics of this defendant, and  
23 just punishment.

24 Your Honor, I'll start by talking about the  
25 seriousness of the offense. And, your Honor, the victim

1 impact statements that you heard at the last hearing and a  
2 little bit this morning -- or this afternoon could go into a  
3 labor trafficking textbook at a law school to teach why this  
4 crime is so terrible. It is a crime of exploitation. It's a  
5 crime of dehumanization. It's a crime where one person  
6 recognizes a power imbalance over another human being and  
7 exploits that power imbalance for evil, exploitive means.

8 Look at the facts, your Honor, from what happened on  
9 the day of the arrest in this case when these victims were  
10 freed from that basement. There were 33 people living inside  
11 that single-family home in Cicero. The victims said there  
12 were points where there was up to 45 people inside that  
13 residence.

14 22 individuals were in that basement with one  
15 bathroom, no heat, mold on the walls, cockroaches in the home,  
16 and lice on the children. And upstairs kept by Ms. Malinek in  
17 her bedroom was that ledger, that ledger that she used and  
18 held over all these individuals to keep them trapped in that  
19 basement.

20 Judge, the defendant used the hopes and the dreams of  
21 these victims, their hopes and dreams for a better life in  
22 this country as a means to get them from Guatemala to that  
23 basement in Cicero. You heard these statements directly from  
24 the victims. Victim 2 who came here with his 15-year-old  
25 daughter told the grand jury, quote:



1           "I fled Guatemala to seek better opportunities for my  
2           daughter and to try to find a way out of Guatemala's  
3           constant danger. I was not making enough money in  
4           Guatemala to provide for my family, and I wanted to come  
5           to the United States to be able to give my family a  
6           better life. Malinek told me that she would find me a  
7           much better job in the United States."

8           Similarly, Victim 3 said, "I left Guatemala in search  
9           for a better life for my family. I wanted to give my children  
10          a better future."

11          And Victim 8 as well, "I wanted a better future for  
12          my child."

13          That was their hopes. That's what she used with  
14          these people. That's what she dangled in front of them to get  
15          them from Guatemala to her basement in Cicero.

16          And, Judge, once she had them there, you've heard and  
17          you've read about what this was all about. She squeezed these  
18          people for every last cent. The details are astounding. \$10  
19          she would charge them for cockroach spray so that when they  
20          were crammed in that basement, they wouldn't have bugs on  
21          them. \$50 for a ride anywhere including if they had to go to  
22          the doctor or to meet with immigration officials. She would  
23          charge them interest when their paychecks wouldn't cover the  
24          made-up amount that she was charging these people every month.

25          \$5 to do a load of wash, \$10 if you didn't clean,

1 \$100 if you left the lights on in the basement. She created a  
2 vicious debt servitude cycle that none of these people could  
3 break free of.

4 Victim 9 told the grand jury quite concisely, your  
5 Honor, quote, "Our checks were typically approximately \$480 a  
6 week, and Malinek would take between 300 -- 350 to \$400 for  
7 rent and debt payment. If we ever missed a payment, she would  
8 charge us interest of up to \$300 a month."

9 By keeping their living expenses so high, your Honor,  
10 and the debt, a completely made-up number to begin with, these  
11 people were trapped there under her control where she wanted  
12 them, and they had no way out of that basement.

13 Your Honor heard through the words of these victims  
14 the significant emotional abuse that this woman imposed on  
15 these individuals. Victim 1, Judge, who was a 15-year-old  
16 girl, should have been in school, instead is working in a  
17 refrigeration -- a factory with refrigeration 40 hours a week  
18 to help her dad pay off this made-up debt.

19 And Victim 1 stated that Ms. Malinek threatened  
20 adults that if they talked about what was happening in the  
21 house or the money they owed her, quote, "she would have them  
22 deported back to Guatemala and would keep their kids with  
23 her."

24 Imagine the effect on this 15-year-old child as she  
25 hears those threats being thrown around in that house, that if

1 anyone said anything, her dad was going to go back to  
2 Guatemala and she would be stuck there with this woman.

3 And that's what a trafficker does, Judge. This woman  
4 weaponized a parent's love for their child to control them.  
5 "If you say anything about what's going on here, you're going  
6 back to your country. I'm keeping your children here."

7 That's what it means to exploit a power imbalance  
8 over another human being. And she did this constantly. She  
9 told Victim 4 that if she ever tried to report what was going  
10 on that she would be deported and, quote, "Because you are  
11 poor and I am rich, I will not lose."

12 She would tell the children in the house that she  
13 loved them more than their parents. When Victim 10 finally  
14 tried to stand up and push back on these made-up debt numbers,  
15 she was told she wasn't smart enough to talk to the people at  
16 the bank and have them explain where these interest payments  
17 are coming from.

18 She would call them names such as "pigs" and "dirty."  
19 Victim 3 said, "When you didn't pay her, she would curse and  
20 scream at you. She had a terrible temper and would insult and  
21 humiliate us because we were poor."

22 Victim 3 again told the grand jury, "Ms. Malinek  
23 yelled, 'You can't speak here, you fucking Guatemalan. I  
24 speak English and live here, and only I can speak here.'"

25 Victim 4 said, "She told me I was nothing, I was a

1 poor nobody."

2           Victim 9 said, "On days we could not find work, she  
3 would get angry and yell at us. She screamed that we had to  
4 work so we could pay off the debt to her. She was a very mean  
5 and frightening woman."

6           Victim 10 who your Honor heard from at our last  
7 hearing directly said, "In 2013 I couldn't handle the insults,  
8 and I wanted to turn myself into Immigration because her  
9 insults and abuse were so bad."

10           And I think what summarizes the emotional abuse,  
11 Judge, and what was going on in that house so well was Victim  
12 9's statement that:

13           "The living conditions at Malinek's residence were  
14 very poor. There were so many people living there, it  
15 made it very uncomfortable. Malinek was always yelling  
16 at us that we had to work so we could pay off the debt.  
17 There was no happiness in the home."

18           And, Judge, that theme was just repeated by each one  
19 of these individuals who your Honor heard from and were part  
20 of this investigation. It was a miserable place, and it was a  
21 miserable place that they could not get out of.

22           They all, all these victims, Judge, talked about the  
23 constant threats, the constant threats of taking the children  
24 away; that if they went outside without her permission, the  
25 police would arrest them; that if anyone talked about what was

1 going on in the house at work or to immigration officials when  
2 they had their meetings that they would be deported and the  
3 kids would stay with her.

4           Victim 4 said that, "When she would make her threats  
5 about us being deported and the kids staying here, she would  
6 do it in front of the children, and the children in the house  
7 would all start crying."

8           Victim 3 told us at the last hearing, Judge, he  
9 described that these threats to take their kids as so harmful  
10 because in the simple terms of what Victim 3, the father of  
11 these children, said, was "one cannot live without children."  
12 And that's what he's thinking as he keeps hearing: "If I ask  
13 for help, if I go to the authorities, she's going to take the  
14 one thing that I love: My children."

15           It was also about control, your Honor. She had such  
16 control over these people. Victim 1 told us, "When I called  
17 my mother, Malinek would send her nephew to listen to what I  
18 was saying. When immigration officials came to the house, we  
19 had to meet in the living room, and she told us we could not  
20 allow them to go into any other rooms."

21           Victim 3 said, "Before every immigration appointment,  
22 she warned us not to tell anybody what was happening in the  
23 house or she would send us back to Guatemala."

24           Victim 5 said, Judge, "One time when I missed the  
25 debt payment, she called my wife in Guatemala and told her I

1 was mistreating our daughter and not feeding her." Victim 5  
2 also said, "There were times when we would give Malinek our  
3 entire paycheck, and we would just sign it over to her." And  
4 we recovered those paychecks, Judge, as part of this  
5 investigation.

6 And Victim 7 said, "I didn't know how I would do it,  
7 but I'm a man of my word, and I would pay my debt even if I  
8 didn't agree with it." And that's kind of the mind control  
9 that she had over these folks, your Honor, is they knew it was  
10 made up, but they were so scared and they had such honor that  
11 they were going to do what they could to pay this made-up  
12 number off.

13 Victim 8 says, "Malinek knew which days were paydays,  
14 and she would drive us from work to the currency exchange and  
15 take almost the entirety of our check."

16 Victim 9 said, "When I told Malinek I couldn't  
17 understand how we owed her so much money, she said she brought  
18 us -- she bought diapers and a crib for our child. I told her  
19 that doesn't come close to \$12,500 that she said we owed her.  
20 She said that she signed her name for us to come to Chicago,  
21 and that was worth at least \$5,000. She said she wasn't  
22 charging us enough."

23 And, Judge, this offense didn't just involve the  
24 exploitation of women and men, adults. It also involved  
25 children. And your Honor heard a little bit about this, but I

1 think the two children most affected by this were Victim 1 who  
2 your Honor heard was a 15-year-old girl who should have been  
3 in school. She should have been a sophomore in high school.  
4 And instead, when she got here, Ms. Malinek looked at this  
5 girl who saw how young she looks, took her to get fake  
6 identity documents and turned this 15-year-old girl into a  
7 27-year-old woman. She stole this girl's childhood, and she  
8 sent her off to that factory 40 hours a week where she was  
9 making sandwiches so she could give that check to her father  
10 to pay this defendant.

11 And you have the two-year-old son of Victims 8 and 9,  
12 your Honor, who was burned in this incident that you've heard  
13 about. And again, it completely fits in with the control that  
14 this woman had over these people and her fear of anybody  
15 finding out about what she was doing in that house so that  
16 when this child got burned and needed help, needed treatment,  
17 she knew she couldn't let them go for help because she knew  
18 the scrutiny it would bring to her, and all that work of  
19 threatening these people not to talk about what was going on  
20 in that house would be exposed at that hospital or at that  
21 clinic.

22 In the words of these two parents, Judge -- and  
23 again, if you want an example of the amount of control that  
24 this woman had over these people and how bad it is to exploit  
25 another human being through a power imbalance such as this,

1 it's imagining the pain and the struggle that two parents have  
2 to watch their two-year-old child suffer with a burn to his  
3 scalp and refuse that boy medical treatment because of the  
4 threats of somebody else.

5 Victim 8, Judge, described what happened. She said:

6 "I got home, and my son had a terrible burn all over  
7 his head. I needed to take him to the hospital, and  
8 Malinek said if I did, she would have me deported. She  
9 said if I took him to the hospital, she would tell the  
10 hospital the injury was all my fault. My son was in  
11 extreme pain, and Malinek would only give me tomato sauce  
12 and olive oil to put on his head which she said would  
13 help. It took my son weeks to recover from this injury."

14 And the boy's father, Judge, tells a very similar --  
15 his experience of what happened. And he describes that, it  
16 was early 2019, and Malinek's parents who typically watched  
17 the children were sick and unable to watch our son. And he  
18 asked if he could stay home to watch their son until her  
19 parents were better.

20 "And Malinek said my wife and I had to keep working  
21 so we could pay off the debt. Malinek told me her girlfriend  
22 was visiting from Guatemala and would watch my son while my  
23 wife and I worked."

24 And then he goes on to describe, Judge, what happened  
25 to that boy and what he saw when he came back. He recalled



1 seeing his son in bed with severe burns all over his head. He  
2 said, "My son's hair was soaked in blood and stuck to his  
3 head. My son had burns extending from his forehead to the  
4 middle of his head. My wife and I pleaded with Malinek to let  
5 us take our son to the hospital, but she refused."

6 And as you heard in his statement today, Judge, "I  
7 didn't know what to do because it crushed my heart to see my  
8 son's wound, but I was scared to disobey Malinek. I was  
9 scared to lose my son."

10 And that's what labor trafficking does, Judge.  
11 That's what human trafficking does, is it puts people -- it  
12 dehumanizes them. It puts them in a position where they can't  
13 even defend their own two-year-old to get him medical  
14 treatment and ease his pain.

15 And think about it. What's on the other side? Why  
16 can't they go to the hospital? It's all just because she  
17 doesn't want this discovered. She doesn't want her income to  
18 be disrupted from these people. That's an evil person, Judge,  
19 who is going to allow that two-year-old to suffer for weeks  
20 because of the scrutiny that might happen and the fact that  
21 she might not have an income stream anymore from these  
22 individuals. There's no doubt, your Honor, this is a serious  
23 offense, and that factor, the seriousness of the offense,  
24 fully supports a 97-month sentence.

25 The second factor I'd like to focus on is deterrence.

1 Your Honor, labor trafficking is such a difficult crime to  
2 detect. You saw that she was able to control these people for  
3 so long. This went on for over ten years from the start of  
4 when Victim 10 was first encountered. That's -- these victims  
5 will not report this crime. It is so difficult to detect  
6 because of the fear that the traffickers hold over the  
7 victims. So when we do catch someone like Ms. Malinek, it is  
8 important that the message be sent to everyone in this  
9 community that if you exploit other human beings in this  
10 manner, you will be punished, and you will be punished  
11 severely.

12 And just punishment, Judge, is a third factor again  
13 that completely warrants a 97-month sentence here. And the  
14 punishment matters here. It matters to the victims, and it  
15 matters to the community. Victim 7, your Honor, says in his  
16 victim impact statement:

17 "Until this case is over, I won't be calm. I'm  
18 always thinking about it. I hope that the law provides a  
19 just sentence so that this doesn't happen to other people  
20 in the future because when I came to this country, it was  
21 to make a better life, to have fair work but with  
22 Malinek, she tricked us, and her promises were never  
23 realized. She just crowded people into her house to make  
24 money."

25 The victims you heard from, Judge, were scared, but

1 they knew how important it was for your Honor and society to  
2 know their story so that just punishment could be given here.  
3 Victim 2's statement again, a quote:

4 "Having to live a trafficking experience was hard and  
5 something I don't wish for anybody, but I focus on the  
6 now. Trying to talk about this is difficult for me, but  
7 I want to make sure that Ms. Malinek does not do this to  
8 anyone else, so I will tell you what I can. She used my  
9 daughter and me. She stole time. She threatened,  
10 traumatized, and humiliated my daughter. I still feel  
11 fear of her power and her threats over my family and me.  
12 I am giving this statement because I feel like it is  
13 important to tell what happened to me, what happened with  
14 her. I cannot say what I have not lived or seen with my  
15 own eyes, but I do have to tell the truth, and this is  
16 the truth."

17 Victim 9, Judge:

18 "I remember all the bad moments. I experienced a  
19 great amount of humiliation, but I experienced even more  
20 threats. Malinek deprived us of our rights as people. I  
21 am terrified to give my statement, but I know it is  
22 important that the truth be told and be known."

23 Victim 8, Judge: "It was a very difficult decision  
24 for me to give this statement, but I want for justice to be  
25 done how it should be."

1           Judge, we owe it to these brave victims who stepped  
2 up and came forward and made their statements to your Honor  
3 despite the fear that they still fear -- feel both here -- and  
4 you heard them mention that their families are in this village  
5 in Guatemala. This is not a one-victim case. This involves  
6 at least the ten victims that are in the indictment as well as  
7 the countless children that were also in that house and  
8 subject to this defendant's abuse.

9           I want to focus on the history and characteristics,  
10 Judge, of this defendant, again, that supports a sentence of  
11 97 months as the government is requesting. This defendant,  
12 you read about her background. She knew exactly the type of  
13 struggles that these victims faced, and she knew what was in  
14 their heads. She knew that they just wanted a better life.  
15 And that makes her conduct even worse.

16           Instead of trying to ease their burden, their  
17 transition to this country, the same difficult transition that  
18 she made, she could have been a mentor, a leader for them.  
19 Instead, she used all that knowledge against them. She used  
20 it to hurt them, to control them. She took her history and  
21 characteristics and used it against each of those victims when  
22 she could have used it to help each of those victims.

23           And I think this defines her character when your  
24 Honor is looking at her character. And Victim 7 told the  
25 grand jury, "I told Malinek I could not sleep knowing how much

1 money I owed her, and she said that is the way she likes it  
2 and that it gives her confidence that I would pay her the  
3 entire debt."

4           And you want to know what someone's character is  
5 like? When you have an individual like that tell you he can't  
6 sleep because he's so worried about how much money he owes you  
7 and you look at him and say, "That's how I like it," that's  
8 who we're dealing with. She didn't view these people as human  
9 beings. Despite coming from the exact same place they came  
10 from, she didn't care, and she used that knowledge against  
11 them.

12           Judge, these ten victims all left Guatemala for the  
13 hope that this country symbolizes to so many: Hope for a  
14 better life, hope for a chance, as one of the victims said, at  
15 fair work for fair pay. She knew what these people wanted,  
16 and she used it against them. She used it to get them here,  
17 and she used it to keep them in her basement. She knew the  
18 love that these parents had for these children, and she  
19 weaponized that love. She exploited that love. She turned  
20 that love into a pair of handcuffs which she used to trap  
21 these people inside that Cicero home.

22           Labor trafficking is one of the worst federal crimes  
23 that a person can commit. Victim 9 whose statement you heard  
24 today said it best when he said, "Malinek deprived us of our  
25 rights as people."

1           For ten years this woman had the power, and she used  
2   it to exploit these human beings. At today's hearing and at  
3   the last hearing, these same victims turned the table on her.  
4   They've turned the table of power on their own trafficker.  
5   These terrified people refuse to be silenced about their  
6   trauma and their exploitation, and they help shine a light on  
7   Ms. Malinek's dark actions.

8           Judge, Victim 8 said in recounting one of his  
9   encounters with Ms. Malinek that she told him, "We know  
10   nothing and nobody would care what happened to us because we  
11   were poor immigrants."

12           Today, Judge, we ask your Honor to show these victims  
13   that people did care about what happened to them, and because  
14   they were poor immigrants, Ms. Malinek's words that nobody  
15   cared could not be more wrong. We ask your Honor to let these  
16   victims know that just punishment will be done in this case  
17   and sentence Ms. Malinek to 97 months' imprisonment for this  
18   conduct. Thank you.

19           THE COURT: All right. Thank you, Mr. Parente.

20           All right. So, Mr. Rascia, how do you want to  
21   proceed? Do you want to argue first, or you're going to  
22   present individual witnesses first?

23           MR. RASCIA: Your Honor, there's been a change in our  
24   presentation. As to one of the witnesses I intended to call,  
25   Jeffrey Malinek, Ms. Malinek's husband, he's written a brief

1 statement to the Court, and he will not be testifying.

2 THE COURT: All right.

3 MR. RASCIA: I gave a copy to Mr. Parente.

4 And we have one live witness, your Honor, who is  
5 going to make a character statement for Ms. Malinek.

6 THE COURT: Okay. So let me just confirm. So,  
7 Mr. Parente, you received a copy of this statement from  
8 Mr. Malinek?

9 MR. PARENTE: I did, your Honor, this morning.

10 THE COURT: All right. And then and who are you  
11 going to present, Mr. Rascia?

12 MR. RASCIA: Dominga Pan Chok -- Pan Macz. I'm  
13 sorry.

14 THE COURT: Okay. And does she need assistance from  
15 an interpreter?

16 MR. RASCIA: She does, your Honor.

17 THE COURT: All right. Then let's go off the record  
18 for a second.

19 (Discussion off the record.)

20 THE COURT: Let's go back on the record.

21 Ms. Pan Macz, if you could raise your right hand.  
22 Your right hand, please.

23 (Witness sworn.)

24 THE WITNESS (through interpreter): Yes, I do.

25 THE COURT: All right. Please have a seat.

1 All right. Mr. Rascia, you're going to present both  
2 by question and answer, or do you have -- is she just going to  
3 give a narrative?

4 MR. RASCIA: She's just going to give a narrative,  
5 your Honor. I'll just ask her to introduce herself.

6 Can you please tell us your full name?

7 MS. MACZ: Dominga Pan Macz.

8 MR. RASCIA: And your full name is spelled  
9 D-o-m-i-n-g-a, P-a-n, M-a-c-z, correct?

10 MS. MACZ: Z. C as in Charles, Z as in zebra. In  
11 other words, first the C, and then a Z last.

12 MR. RASCIA: Correct. You may proceed.

13 INTERPRETER MENDOZA: May the interpreter instruct  
14 the witness, your Honor, to pause after each sentence or  
15 paragraph?

16 THE COURT: Yes, please.

17 MS. MACZ: Should I look at you, your Honor?

18 THE COURT: You can look wherever you like.

19 MS. MACZ: Should I stand up?

20 THE COURT: No. You may remain seated.

21 MS. MACZ: I'd like to talk about what I have seen  
22 with respect to my sister, Concepcion. I arrived here in  
23 2018, and she has supported us in every way. When we get  
24 here, she pays for our tickets. Besides that, she will buy  
25 beds for us. She would buy clothing for us. And when we have



1 an appointment with immigration or ICE, she would take us  
2 there.

3 And if anyone of those who lived in there, she got  
4 ill or sick at any point in time, she would take us  
5 immediately to the hospital. For example, a sister-in-law at  
6 one point got ill, and she took her to the hospital at 1:00 in  
7 the morning. And when expenses are to be made with regard to  
8 medication, she will pay for all medications.

9 And she has taken us to the schools to register our  
10 kids whenever we register our children. Also she has  
11 impressed upon us that we should be careful with our children.  
12 We should take care of our children and not to let them go out  
13 into the streets by themselves. Also when we first arrived,  
14 she bought our tickets. And also when we lived there, we  
15 would be able to go out, go to the park, go to church, go  
16 shopping to the stores. Also she has taken us to the park  
17 herself along with our children.

18 And she also told us that whenever ICE visits us,  
19 whenever they come to visit because they do come to visit us  
20 and we're not there, she has told us not to worry about it  
21 because whenever they get there, she would be able to tell  
22 them where we are and she would be able to find us. And also  
23 whenever we have an appointment or we have to go to court  
24 because we do have to go to immigration sometimes and we do  
25 not all speak English, so she comes along with us, and she

1 takes us there to our appointments.

2 She was very supportive of all of us, and that's why  
3 we are extremely thankful to her, not only thankful with  
4 respect to my own family but also for each and everyone whose  
5 family was also being supported by her by letting them stay  
6 there. And thanks to her, we are here, so we thank her for  
7 having us come over here. She also loaned us some money for  
8 us to be able to come here, and she was also very helpful when  
9 we wanted to come here.

10 And she has also been very supportive to other  
11 families, not only to our own families but also to people who  
12 cannot afford certain things. Like, she has been able to send  
13 some goods and groceries and food to people that are in the  
14 hospital.

15 We're very sorry about everything that transpired.  
16 Had she been there for us, maybe my parents wouldn't have died  
17 because my parents passed away due to COVID. And as much as  
18 we wanted to be there with them, we weren't able to. And  
19 unfortunately, my parents did die because of COVID.

20 And sometimes when she -- when we wanted to go to  
21 church, she would take us to church. And she would take the  
22 children to McDonald's. She would also tell us that we had to  
23 be very responsible with our own children and that we had to  
24 make sure they did their homework for school.

25 That's all I would like to say.

1 THE COURT: All right. Thank you.

2 Any follow-up questions, Mr. Rascia?

3 MR. RASCIA: No, your Honor. Thank you.

4 THE COURT: All right. Mr. Parente, anything?

5 MR. PARENTE: A few questions, Judge.

6 THE COURT: All right. You can just ask from the  
7 desk there.

8 MS. MACZ: Yes.

9 MR. PARENTE: Good afternoon, ma'am.

10 MS. MACZ: Good afternoon.

11 MR. PARENTE: Ma'am, am I correct that you're the  
12 defendant's sister?

13 MS. MACZ: Yes.

14 MR. PARENTE: Would it be fair to say that she  
15 treated you differently than maybe some of the other people  
16 that we've heard about over the last two hearings?

17 MS. MACZ: I would not see that as being different in  
18 a particular way, but simply when she talked to us, she was  
19 merely giving us good advice as to how we should be -- it was  
20 as simple as that.

21 MR. PARENTE: Okay. So did she treat you the same  
22 way as the other people that you heard describe the way that  
23 she treated them?

24 MS. MACZ: Well, since I'm not at home all the time,  
25 I wouldn't be able to reply to that.

1 MR. PARENTE: Okay. Where were you when you weren't  
2 at home?

3 MS. MACZ: Sometimes I would go shopping, and  
4 sometimes I would go to work, things like that.

5 MR. PARENTE: And where did you work?

6 MS. MACZ: I was working with my husband doing yard  
7 work.

8 MR. PARENTE: Okay. So you didn't work at the same  
9 factory as the other victims that you heard speak about?

10 MS. MACZ: Yes, when they first arrived at the  
11 beginning. When I arrived I also went to work with them early  
12 on at the beginning for about two months.

13 MR. PARENTE: And where did you sleep in the house?

14 MS. MACZ: In the basement.

15 MR. PARENTE: And did Ms. Malinek ever threaten you  
16 with deportation if you didn't pay your debt?

17 MS. MACZ: No.

18 MR. PARENTE: Did you ever hear her threaten any  
19 others with deportation?

20 MS. MACZ: At no time did I ever hear that.

21 MR. PARENTE: At the time -- I'm sorry. I didn't  
22 hear.

23 MS. MACZ: No, no, I never heard that.

24 MR. PARENTE: Okay. And you're aware that she's  
25 admitted to that conduct, right?

1 MS. MACZ: What do you mean by that?

2 MR. PARENTE: Do you know that Ms. Malinek told this  
3 judge that she threatened these individuals with deportation  
4 if they didn't pay her the debt?

5 MS. MACZ: Yes, that's what I heard others say, yes.

6 MR. PARENTE: But you as her sister, you never had  
7 that threat made against you?

8 MS. MACZ: No, not to me.

9 MR. PARENTE: Okay.

10 MS. MACZ: I just heard other people say it. I just  
11 overheard that people were saying it, but they were not  
12 addressing me at the time.

13 MR. PARENTE: And you said that you were in the  
14 basement. Am I correct that you had your own room in the  
15 basement?

16 MS. MACZ: Yes.

17 MR. PARENTE: And is it fair to say that's again  
18 because you were her sister, and you weren't in the bunks with  
19 the other 20 or so individuals?

20 MS. MACZ: No, I wasn't. I had a room.

21 MR. PARENTE: You were the only one with a room?

22 MS. MACZ: No, there were other people who had rooms.

23 MR. PARENTE: There were --

24 MS. MACZ: For example --

25 MR. PARENTE: Go ahead.

1 MS. MACZ: Others have rooms. For example, Julio and  
2 Hilda, they did have rooms.

3 MR. PARENTE: In the basement, there's private rooms  
4 down there?

5 MS. MACZ: No -- what do you mean, "private rooms"?

6 MR. PARENTE: Well, what do you mean by "rooms"?

7 MS. MACZ: Two rooms, I guess you can call them that.  
8 There were two other rooms in the basement. They were rooms.

9 MR. PARENTE: And in your opinion, I think you said  
10 in your statement that anyone living under your sister's roof  
11 was free to come and go as they pleased; is that correct?

12 MS. MACZ: Yes.

13 MR. PARENTE: But you know that that's not true,  
14 right?

15 MS. MACZ: Each and every one of them had a key.

16 MR. PARENTE: But you knew they couldn't move out of  
17 that house until the debt was paid, right?

18 MS. MACZ: Like I said, I'm not at my sister's side  
19 at all times. I don't know what she discussed with each  
20 family.

21 MR. PARENTE: Are you aware that she would have these  
22 families sign contracts that said they couldn't leave the  
23 house, they couldn't move, change their address until they  
24 paid the debt off?

25 MS. MACZ: Like I said before, everybody or each

1 person that owed her -- owed her, as far as I'm concerned,  
2 what I owed to her I was going to pay to her.

3 MR. PARENTE: Did she have you sign a contract that  
4 say that -- that said you wouldn't leave that house until your  
5 debt was paid?

6 MS. MACZ: No.

7 MR. PARENTE: Judge, may I approach the witness?

8 THE COURT: For what purpose?

9 MR. PARENTE: Just to show her a document to see if  
10 she recognizes it.

11 THE COURT: Okay. What is the nature of the  
12 document?

13 MR. PARENTE: Judge, it's a document that I believe  
14 would be her signature with a statement that says she can't  
15 leave the house until her debt is paid.

16 THE COURT: Okay. So we'll turn the document camera  
17 on and so that way, you don't have to approach her.

18 Okay. You can give it an exhibit number too.

19 MR. PARENTE: It's Government Exhibit 1, your Honor.  
20 Ma'am, would you take a look at this exhibit?

21 MS. MACZ: Yes.

22 MR. PARENTE: Do you recognize this exhibit?

23 MS. MACZ: Well, the truth is I don't remember when I  
24 signed it, but I do remember signing a sheet of paper.

25 MR. PARENTE: Okay. And what does this line here

1 read that starts, "no podrá cambier"?

2 MS. MACZ: Yes, but when she handed that to me, I was  
3 about to leave. And I told her, "I'm about to leave," so I  
4 think that's what happened.

5 MR. PARENTE: Okay. I was just asking, what does  
6 that sentence say to you?

7 MS. MACZ: What I understand is that I am not going  
8 to be able to leave the place until I paid that amount of  
9 money that's written down there on that paper.

10 MR. PARENTE: Okay. So maybe the statement that  
11 people are allowed to just leave whenever they want once your  
12 debt is paid, do we agree that that's kind of the situation  
13 that was happening?

14 MS. MACZ: Uh-huh. That's what it states in here.

15 MR. PARENTE: And this is what she gave you, right?

16 MS. MACZ: Yes, uh-huh, but I just don't recall the  
17 exact time I signed it.

18 MR. PARENTE: Right. But you recall her handing it  
19 to you?

20 MS. MACZ: But I don't have a copy of this.

21 MR. PARENTE: Okay. So is it fair to say, while we  
22 do go to church and we go to McDonald's, it's not exactly, you  
23 can just move out whenever you want. She had you -- she  
24 presented you with a contract that said you cannot leave until  
25 the debt is paid?



1 MS. MACZ: Uh-huh.

2 MR. PARENTE: Thank you, your Honor.

3 MS. MACZ: Okay.

4 THE COURT: All right. Can you retrieve the exhibit?

5 Mr. Rascia, any follow-up questions?

6 MR. RASCIA: No, your Honor.

7 THE COURT: Okay. You are excused. I'm going to ask  
8 you to take the microphone cover.

9 All right. And do you have any other witnesses,  
10 Mr. Rascia?

11 MR. RASCIA: No live witnesses, your Honor.

12 THE COURT: All right. Then you're excused.

13 (Witness excused.)

14 THE COURT: Okay. We've done the interpreter  
15 hand-off, so go ahead, Mr. Rascia.

16 MR. RASCIA: Your Honor, to start with, just to make  
17 sure that I'm on the same page with the Court, based on your  
18 prior ruling, I think the advisory sentencing guideline range  
19 in this case is 63 to 78 months, correct?

20 THE COURT: That's correct.

21 MR. RASCIA: And Mr. Parente is seeking a sentence  
22 well above the high end of that range.

23 Judge, you've heard plenty about the nature and  
24 circumstances of the offense. And to avoid any confusion,  
25 certainly Ms. Malinek has acknowledged in her written plea

1 declaration what she did. The purpose of hearing from  
2 Ms. Pan Macz was not to assert that the other individuals gave  
3 a false narrative to the Court but to establish that people  
4 had different experiences living in that home. This was not a  
5 doom and gloom situation day in/day out.

6 And, Judge, there's I think something that kind of  
7 crystallizes that. Victim No. 3, as you may recall, testified  
8 that he had been living in that house for approximately eight  
9 months before he arranged to have his wife and children come  
10 and live at that residence. That was a decision that Victim  
11 No. 3 made. I would assume that Victim No. 3 loves his wife  
12 and children and would not be desirous of putting them into an  
13 environment where they risked injury or sickness.

14 Certainly, the defendant acknowledges and has not  
15 protested the information that's in her presentence  
16 investigation report. There were way too many people living  
17 in that house. Based on the number of people living in that  
18 house, the conditions, even however hard anyone tried to keep  
19 things in check, certainly would not have been an optimum  
20 place to stay. Certainly, this was not a place that was Four  
21 Season-esque, nor was it likely even up to standards with  
22 Motel 6, but these are people that made the decision to come  
23 there, and they did so for their own individual reasons.

24 Ms. Malinek, based on her life's work, had always  
25 helped people. And she started on this journey with the

1     desire to help people. She made very substantial expenditures  
2     on her own to assist these people. And those standard  
3     expenditures included transportation costs for airline  
4     tickets; bus tickets; food; clothing, all types of clothing,  
5     from outerwear to underwear, to shoes and socks; paid in  
6     advance fees for these individuals to meet with an immigration  
7     lawyer; paid in advance fees for medical examinations that  
8     were necessary, drove them to appointments.

9             Certainly, Ms. Malinek's conduct in aggressively  
10     pursuing the repayment of those fees and her acknowledgement  
11     that the fees were beyond what she had paid out of her own  
12     pocket to accommodate these people, that's why she's pled  
13     guilty to this crime, and that's why she's before you today.

14             In her plea declaration, to be crystal clear,  
15     Ms. Malinek admitted that she allowed Victim 10 to reside at  
16     her residence and continued to demand payment of a debt that  
17     Malinek claimed Victim 10 owed her for services provided.  
18     While Victim 10 resided at Malinek's residence, she was  
19     employed, and the defendant demanded and received from Victim  
20     10 a substantial portion of Victim 10's earnings to apply  
21     towards the debt owed by Victim 10 to the defendant.

22             The defendant demanded payment of the debt from  
23     Victim 10, and when Victim 10 did not make a prompt payment of  
24     the debt defendant claimed was owed to her, the defendant  
25     threatened to contact immigration authorities to seek Victim

1 10's deportation back to Guatemala.

2 In her plea declaration, Ms. Malinek also  
3 acknowledged that she agreed and provided assistance for a fee  
4 to other individuals to enter the United States from 2009  
5 through 2019. She acknowledged all the victims as charged in  
6 the superseding indictment in Counts 1 through 9. The  
7 defendant acknowledged that she claimed these individuals owed  
8 a debt to her for providing services and housing to them in an  
9 amount that she individually determined. Defendant demanded  
10 prompt payment of the debt and also threatened these people  
11 with deportation as a means to collect the payment. She  
12 acknowledged that she committed that conduct.

13 That's the essence of the crime that she's been  
14 charged with, and she's acknowledged that that's what she did.  
15 And I don't want the Court to think that Ms. Pan Macz's  
16 testimony was an attempt to say that those things didn't  
17 happen. They didn't happen with her. Different people had  
18 different experiences but again, many of these victims had  
19 some sort of family relationship to Ms. Malinek, and she  
20 provided to them a very important opportunity which was to be  
21 released from the detention center in Texas, acknowledging  
22 that she would provide their transportation and would agree to  
23 house them in her residence.

24 Where Ms. Malinek made a left turn and created a huge  
25 problem for herself and the others is that she continuously

1 said yes to people that she should not have said yes to. The  
2 residence where she lived was not a place that could have  
3 accommodated that number of people. She's acknowledged that  
4 that was a misstep on her part, and she's acknowledged that  
5 her conduct in treating people the way she did was  
6 inappropriate.

7 Most importantly, Ms. Malinek pled guilty to Count 10  
8 of the superseding indictment in this case, and it was the  
9 count that carried the highest offense level because of the  
10 length of time involved. So she's made no attempt to try to  
11 avoid the consequences of her conduct. And she also  
12 acknowledged the underlying conduct that resulted in the  
13 two-level increase, which was her involvement in the securing  
14 of the false identification documents which various  
15 individuals had used in order to obtain employment.

16 So, Judge, Ms. Malinek has completely acknowledged  
17 her conduct. She started on this journey in a different way  
18 than where it ended up but nonetheless, she knows she's going  
19 to suffer the consequences today.

20 Ms. Malinek did not have the best of lives from its  
21 inception. She's now 51 years old as she sits before you  
22 today. She's in poor physical health. She suffers from  
23 diabetes, and she's currently taking medication to help with  
24 the anxiety and depression that her incarceration and  
25 involvement in this crime have brought to her.

1           From what I think I hear from the victims in this  
2 case is it's somewhat of an eye for an eye mentality which  
3 they're justified in perhaps seeking. They were harmed, and  
4 they feel that Ms. Malinek should suffer the consequences of  
5 causing that harm to her. Well, Ms. Malinek has already  
6 suffered some very substantial harm. She's been in jail for  
7 25 months at this point, starting out at the MCC and now  
8 currently being held in the Livingston County Jail. She's  
9 been in jail throughout the pandemic which has caused very  
10 substantial hardship on her as it does on any inmate because  
11 she's no longer afforded the opportunity for an in-person  
12 visit, not even an in-person visit with her lawyer.

13           So along the way, Ms. Malinek has had to suffer with  
14 the anguishing grief of her conduct that caused her to be in  
15 jail and beyond that, her belief that had she not engaged in  
16 this conduct and had not been charged with this crime, she  
17 would have been available to her mother and father to assist  
18 them during the time that they were living in her home to a  
19 level where perhaps they wouldn't have become ill and they  
20 wouldn't have passed away. That's a tremendous burden that's  
21 weighed on her throughout the time since that event happened  
22 approximately a year ago.

23           Judge, when we were here last, as you observed,  
24 Ms. Malinek became very emotional while she was in court,  
25 overwhelmed, and explained to me that to hear how much she had

1   harmed these other victims caused her great grief. That was  
2   not her intention, but her methods certainly that she employed  
3   were not appropriate methods.

4           In regards to Ms. Malinek's life, things started out  
5   for her very difficult with a lot of difficulty. Her mother  
6   became pregnant with a gentleman that she was not married to,  
7   something that was very scorned upon in the community she  
8   lived in in Guatemala. It was suggested by the defendant's  
9   grandmother that the mom abort the pregnancy. She chose not  
10   to do that and gave birth to the defendant, essentially in a  
11   field with no help or support from the father. For many  
12   years, he was not part of the defendant's life.

13           The defendant lived in extreme poverty. At a young  
14   age, she worked in the field as a farm worker, did not have  
15   any substantial clothing or food and lived a very poor and  
16   difficult existence. Later on when the defendant was about 19  
17   years old, she joined a convent as a way to -- I'm sorry,  
18   Judge. 13 years old.

19           She joined a convent to learn and get educated and  
20   began her training to learn to help others as part of her  
21   mission. She later came to the United States on a religious  
22   visa, remained in the convent, and later became disenchanted  
23   with the convent and left and went off on her own, but she  
24   continued in her work in helping others. She was a caretaker  
25   for an individual and provided live-in day-to-day care.

1           During that time, she met with what later became her  
2 husband who was an ambulance driver who used to come to the  
3 residence in order to transport the person that the defendant  
4 was working for to medical appointments by ambulance, and they  
5 struck up a relationship and later married.

6           Over time, the defendant always worked, sought to  
7 better herself. And things changed dramatically in 2015. And  
8 I'll tender to the Court Defendant's Exhibits 1-A, 1-B, and  
9 1-C. These are photographs of the injuries that Ms. Malinek  
10 suffered in a very horrific bus accident. The individual that  
11 was seated next to her on the bus died in this accident.  
12 Because of the severe injuries Ms. Malinek had suffered at  
13 that time, it took her quite a bit of time to recover, and she  
14 was disabled from that point forward, unable to maintain any  
15 full-time employment because of her physical condition.

16           Over the years of Ms. Malinek's life starting with  
17 her time in Guatemala and joining the convent and being a  
18 caretaker, she developed a desire to help other people, and  
19 that's what drew her into this situation. And she's  
20 acknowledged in her plea declaration and in her conduct and  
21 attitude towards the case that she knows the methods she  
22 employed in attempting to help these people were clearly  
23 wrong, and that's why she's guilty of the crime as she sits  
24 before you today.

25           Judge, in regards to the conditions in the residence,



1 as I indicated earlier, certainly with that number of people  
2 in the home, even though she had contracted with an  
3 exterminator, even though she had paid to have the catch basin  
4 cleaned and contacted the Town of Cicero to repair the sewer  
5 and they set up a regular regimen to clean the residence,  
6 those efforts certainly, although they may have helped to some  
7 degree, was a situation that with that number of people was  
8 bound to be out of control.

9 And again, Ms. Malinek accepts responsibility for  
10 having created that situation because it was at her invitation  
11 that these people were allowed to leave the immigration  
12 detention center in Texas and come to live in her residence in  
13 Cicero.

14 Judge, punishment is a very difficult thing to assess  
15 in a case. 97 months in prison to me conjures up the type of  
16 case where someone died and someone has suffered a lifelong  
17 debilitating injury, someone who has suffered much more  
18 extreme consequences than the victims have in this case. And  
19 I'm not belittling their feelings about what happened to them.  
20 They're certainly entitled to that.

21 But as you're aware from the information in this  
22 case, these individuals, other than Victim 10, were not people  
23 that had a long-term stay in Ms. Malinek's residence. And in  
24 addition to that, Ms. Malinek stands ready to pay a very  
25 substantial amount of restitution as requested by the

1 government. Again, the payment of the restitution isn't an  
2 attempt to buy herself a shorter sentence, but it's a  
3 recognition that her conduct was such that it needed to be  
4 punished and a recognition that she will continue to suffer  
5 the consequences of her conduct beyond whatever punishment the  
6 Court imposes in this case.

7           The financial hardship of being able to deplete a  
8 retirement account and list your home for sale to pay these  
9 victims is certainly something that's going to take many, many  
10 years for the defendant and her husband to recover from, and  
11 perhaps they'll never recover from it.

12           But in regards to the punishment that may be  
13 necessary to deter Ms. Malinek or perhaps someone else from  
14 engaging in this type of activity, I would focus, I choose to  
15 focus on the fact that this is a person that does not have a  
16 history of criminal conduct other than what's related in this  
17 case. She's had no prior experiences with law enforcement.  
18 She's had no prior experience with a term of incarceration,  
19 certainly a situation that has strong long-term effects on any  
20 person.

21           Adding to that, being incarcerated during a pandemic  
22 period, being incarcerated and having to sit basically on your  
23 hands while your mother and father are buried will leave  
24 long-term effects on Ms. Malinek that I'm sure she'll never  
25 forget and understanding that it was her own conduct that

1 caused her to be in that situation.

2 Judge, the class offense here is a Class C felony  
3 which by statute would allow the Court to impose a sentence of  
4 probation legally. And I'm not asking you to impose a  
5 sentence of probation but certainly, the time that Ms. Malinek  
6 has already been in jail and the additional time that the  
7 Court will likely impose I think is such that it's, I think,  
8 very crystal clear that Ms. Malinek is not going to run afoul  
9 of the law again. And this is also a case that allows the  
10 Court to impose up to three years of supervised release.

11 So whatever term of incarceration the Court deems  
12 appropriate for Ms. Malinek to serve, that's not going to be  
13 the end of the ordeal for her. She's going to have to make  
14 sure that every dime of the restitution is paid. She's going  
15 to have to make sure that she complies with all the conditions  
16 of her release including not engaging in any criminal  
17 activity.

18 Certainly I think it's worth the Court's  
19 consideration beyond the low end of the guideline range. This  
20 is a 51-year-old woman. She suffers from diabetes, is  
21 currently taking medication for anxiety and depression, has a  
22 disability because of an accident, has admitted her conduct to  
23 the Court, has not challenged the representations made in the  
24 presentence investigation report.

25 Perhaps Ms. Malinek at the time did not understand

1     that the words she used would have the effect that they did,  
2     but she certainly learned that while she was sitting in court  
3     back on March the 23rd and listened to it and reacted the way  
4     she did. And, Judge, I think her reaction was sincere. It  
5     expressed an overwhelming sense of grief and embarrassment for  
6     having done the things that the government has told you she  
7     did, and she's acknowledged that she did them. So, Judge, I  
8     think that the sentence the Court should impose hopefully will  
9     factor those things into the sentence that you ultimately do  
10    impose.

11             Judge, in regards to the term of incarceration that  
12    the Court may impose in this case, I'm asking the Court to  
13    consider, based on the defendant's lack of prior criminality,  
14    her extreme remorse, her acknowledgement of the events and  
15    things that she did in this case, her plea of guilty, her life  
16    situation, to consider a sentence of 36 months.

17             The defendant, while doing and saying the things she  
18    did, for whatever little value this has, she certainly didn't  
19    follow through on the boasts that she made. And maybe she  
20    realized that she shouldn't have said those things in the  
21    first place, but those are the things that she said that  
22    caused her to be guilty in this case: Demanding the money,  
23    making the threats that she made. She also paid out a lot of  
24    money for all of the items that we've discussed. So, Judge,  
25    I'm asking for all those reasons that you consider a sentence

1 of 36 months.

2 THE COURT: All right. Thank you, Mr. Rascia.

3 Before we hear from the defendant, let's take care of  
4 a couple other things first. On restitution, I want to make  
5 sure that the amounts agreed on in the victim spreadsheet that  
6 we received from the government back on March 23rd actually,  
7 so are those agreed-upon amounts, Mr. Rascia?

8 MR. RASCIA: Judge, I believe the amount -- and I  
9 don't have the document in front of me at the moment, but I  
10 believe the amount is 112,000.

11 THE COURT: You know, I don't actually have the total  
12 on the spreadsheet.

13 MR. RASCIA: Judge, I have on the document previously  
14 provided to me from Mr. Parente, the total estimated  
15 restitution for all ten victims is \$112,545.

16 THE COURT: Does that square with your calculation,  
17 Mr. Parente?

18 MR. PARENTE: Yes, Judge. That's the number.

19 MR. RASCIA: Judge, may I make a comment about that  
20 as well?

21 THE COURT: All right.

22 MR. RASCIA: Judge, again, as you -- when you look at  
23 this chart that's been provided by the government, for  
24 example, there's amounts in here for counseling and other  
25 items that to my knowledge, I don't know if anyone has gone

1 for counseling. But the point is, again, Ms. Malinek has made  
2 no challenge to that. Whatever needs to be done for these  
3 victims, she's willing to do, and she's willing to pay for  
4 which I think is a further indication of her remorse over  
5 having acted the way she did in relation to these individuals.  
6 Even though she herself paid out substantial sums of money,  
7 she is agreeing to pay this money.

8 THE COURT: All right. Thank you, Mr. Rascia.

9 And just, the individual breakdowns on that  
10 spreadsheet, you also agree to?

11 MR. RASCIA: That's correct, Judge.

12 THE COURT: All right. And then with regard to  
13 forfeiture, what's happening on that count?

14 MR. PARENTE: Judge, we are going to ask, and I've  
15 spoken to defense counsel about this, that the preliminary  
16 order of forfeiture be entered today. What I think is going  
17 to happen, and it's my understanding is, the house is jointly  
18 owned, the house which was used to commit the crime which is,  
19 we fully intended to forfeit. And I don't believe there's an  
20 objection to that. The defendant's spouse lives there and is  
21 allegedly at least a part owner of the house.

22 So as part of a compromise between the government and  
23 the defense, my understanding is the house will either be sold  
24 or a second mortgage will be taken out, and that money will be  
25 used to pay the remainder of the restitution at which point

1 the government will not seek to forfeit the home.

2 MR. RASCIA: And, Judge, so you're aware, there is a  
3 substantial portion of the restitution, approximately \$80,000,  
4 which is currently available from the withdrawal of those  
5 funds from a retirement account. The balance is being worked  
6 on through either the sale or securing a loan against the  
7 property, but there's been a lot of difficulty with that, but  
8 it will be paid.

9 THE COURT: Okay. So on -- are you asking me to hold  
10 off on the preliminary order of forfeiture?

11 MR. PARENTE: No. I'm asking you to enter it. And  
12 my understanding is, it has to be entered today. And I  
13 believe defense is in agreement with this. And we will not --  
14 we'll dismiss it if the payment is made.

15 THE COURT: I see. Okay. All right. Any objection  
16 to that plan, Mr. Rascia?

17 MR. RASCIA: No, your Honor. I have discussed that  
18 with Mr. Parente several times, and we're in agreement.

19 THE COURT: Okay.

20 MR. RASCIA: And I discussed it with Ms. Malinek.

21 THE COURT: Okay. All right. So then we'll enter  
22 the preliminary order of forfeiture. And then I'll wait for  
23 presumably dismissal of it or if things go sideways, then you  
24 know we'll hear proceedings on a final order of forfeiture.

25 Okay. And let's talk about the supervised release

1 conditions before the allocution, so if you can turn to Page  
2 18 of the presentence report.

3 All right. Any objection, Mr. Rascia, to mandatory  
4 conditions 1, 2, and 5?

5 MR. RASCIA: No, Judge.

6 THE COURT: All right. Those will be entered because  
7 they are mandatory.

8 No. 6 was not proposed. And I believe that's because  
9 the PSR explained there is no indication of any problem on  
10 this count whatsoever. So, Mr. Parente, is there any  
11 objection to not imposing 6?

12 MR. PARENTE: No, your Honor.

13 THE COURT: Okay. It will not be imposed.

14 With regard to discretionary conditions, any  
15 objection, Mr. Rascia, to No. 4?

16 MR. RASCIA: Judge, the only issue is because of  
17 Ms. Malinek's disability, I don't know if there's employment  
18 that will be available to her. But she certainly is willing  
19 to seek any type of employment that would fit within what her  
20 physical ability is.

21 THE COURT: All right. Let's add, after the words  
22 "lawful employment," "if able to do so."

23 All right. With that modification, any objection,  
24 Mr. Rascia?

25 MR. RASCIA: No, your Honor.



1 THE COURT: And any objection, Mr. Parente?

2 MR. PARENTE: No, your Honor.

3 THE COURT: All right. On No. 6 on the bottom of  
4 Page 18, I propose to add the word "felony" in front of  
5 "criminal activity" just given the breadth of federal, state,  
6 and local law these days including misdemeanor.

7 So any objection to adding that, Mr. Parente?

8 MR. PARENTE: No, your Honor.

9 THE COURT: And with that addition, any objection,  
10 Mr. Rascia?

11 MR. RASCIA: No, your Honor.

12 THE COURT: All right. Page 19, the provision on  
13 No. 7 is excessive use and then, of course, the back half of  
14 that on any controlled substances. Any objection to that,  
15 Mr. Rascia?

16 MR. RASCIA: No, your Honor.

17 THE COURT: All right. So No. 7 will be imposed as  
18 authored.

19 The excessive use prohibition is warranted just in  
20 light of the fact that excessive use does impair judgment and  
21 can lead to additional recidivism. So I think that's  
22 important.

23 Any objection to No. 8, Mr. Rascia?

24 MR. RASCIA: No, your Honor.

25 THE COURT: All right. That will be imposed in light

1 of the felony nature of the offense.

2 I think in No. 9, it would make sense to require the  
3 mental health treatment program if the probation office so  
4 directs. So is there any objection to imposing that,  
5 Mr. Rascia?

6 MR. RASCIA: No, your Honor.

7 THE COURT: All right. Mr. Parente?

8 MR. PARENTE: No, your Honor.

9 THE COURT: Okay. So we will check the box for No. 9  
10 and then the mental health treatment subparagraph.

11 All right. The monitoring conditions, any objection,  
12 Mr. Rascia, to Nos. 14, 15, skip 16 for the moment, 17, and  
13 18?

14 MR. RASCIA: No objection to those, your Honor.

15 THE COURT: All right. Those will be imposed as  
16 authored. Those assist the probation officer in monitoring  
17 compliance with all the other conditions of release.

18 No. 16, what I typically do here is uncheck the boxes  
19 for "work, school, community service location" and I instead  
20 include an objection period of seven days after notification  
21 of the proposed location. In other words, if the probation  
22 officer proposes work or school or anyplace else, the  
23 defendant can pose an objection.

24 So is there any objection to that edit, Mr. Parente?

25 MR. PARENTE: No, your Honor.

1 THE COURT: And Mr. Rascia?

2 MR. RASCIA: No, your Honor.

3 THE COURT: Okay. Turning to Page 21, the special  
4 conditions, I typically don't have a default of community  
5 service after 60 days. I would just rather the probation  
6 office come back at some reasonable time.

7 So any objection, Mr. Parente, to not imposing 3?

8 MR. PARENTE: No, your Honor.

9 THE COURT: All right. In light of the financial  
10 obligations, hopefully those will be paid off relatively soon.

11 Any objection to 5, 6, 7, and 8, Mr. Rascia?

12 MR. RASCIA: No, your Honor.

13 THE COURT: All right. Those will be imposed as  
14 authored.

15 And then turning to Page 2 -- no, still on 22, any  
16 objection to No. 10, Mr. Rascia?

17 MR. RASCIA: No, Judge.

18 THE COURT: All right. So that will be imposed as  
19 authored. And then --

20 MR. RASCIA: Judge?

21 THE COURT: Yes.

22 MR. RASCIA: I suppose it was an error on my part not  
23 to address this, but in light of the substantial restitution,  
24 as part of my request to the Court sentencing-wise, I'm asking  
25 that you not impose a fine.

1 THE COURT: Okay. I'll take that under  
2 consideration. Thank you.

3 Okay. Page 23, the discretionary -- I'm sorry, the  
4 special condition 11, any objection to that, Mr. Rascia?

5 MR. RASCIA: No, your Honor.

6 THE COURT: All right. That will be imposed as  
7 authored. It is for the safety of the probation office.

8 All right. Now, No. 14, I understand why it was  
9 proposed in light of the information in Paragraph 77 of the  
10 PSR. However, that allegation was not proven up. I don't  
11 believe it resulted in any discipline either from the BOP or  
12 from the marshal service. So I don't really think there is a  
13 basis for this.

14 What's the government's position?

15 MR. PARENTE: I agree, Judge. I don't -- I think  
16 it's close and I think there's other stuff. I can tell your  
17 Honor, we looked into some of this, and we're not in a  
18 position to prove it up to your Honor.

19 THE COURT: Okay. I'm not going to impose No. 14.  
20 And given that there's another mental health treatment  
21 condition that's more broad, if there are some issues that are  
22 uncovered, then they can be addressed at that time, but there  
23 is not a factual basis for 14.

24 Okay. Anything else on the proposed conditions?  
25 Obviously, I will deliberate over the length of it after

1 hearing the defendant's allocution. Anything else for the  
2 government?

3 MR. PARENTE: No, your Honor.

4 THE COURT: Mr. Rascia?

5 MR. RASCIA: No, your Honor.

6 THE COURT: Okay. Mr. Rascia, do you want to check  
7 if Ms. Malinek wants a break before the allocution? We've  
8 been going for about an hour and 40 minutes.

9 MR. RASCIA: Please, Judge. Thank you.

10 THE COURT: Okay. All right. Let's take 15 minutes.

11 (Recess from 2:39 p.m. to 2:56 p.m.)

12 THE COURT: All right. We're back on the record.

13 I'll just make sure the interpreters get situated.

14 INTERPRETER MENDOZA: Yes, your Honor.

15 THE COURT: All right. We'll hear now from  
16 Ms. Malinek.

17 Ms. Malinek, you have a right to say whatever you  
18 would like on your behalf. So if you have something to say,  
19 please go ahead and do so.

20 THE DEFENDANT (through the interpreter): Your Honor,  
21 Judge Chang, I am here now --

22 THE COURT: Actually, let's -- I'm sorry.

23 Mr. Mendoza, let's -- I can turn your microphone on at that  
24 table and that way you don't have to be quite so close. So  
25 why don't I do that.

1 INTERPRETER MENDOZA: Thank you, your Honor. From  
2 here?

3 THE COURT: Yes. So the mikes on that table should  
4 be on now.

5 INTERPRETER MENDOZA: Testing.

6 THE COURT: Okay. There we go.

7 Ms. Malinek, please go ahead.

8 THE DEFENDANT: Your Honor, I'm here in front of you  
9 today, and I'm asking you in the name of Jesus, Jesus who has  
10 brought me here today, in the name of the Lord, my God who is  
11 in heaven and earth, I'm asking your Honor, telling you that I  
12 am very sorry, and I hope for your forgiveness because I have  
13 two judges: One judge in this world and another one after we  
14 depart this life.

15 And I am asking for your forgiveness, and I am  
16 apologizing to everyone from the bottom of my heart. To my  
17 aunts and uncles, to my cousins, my nieces and nephews all  
18 belonging to the same family, and the two siblings --

19 THE DEFENDANT (in English): Two brothers.

20 THE DEFENDANT (through the interpreter): Two  
21 brothers, the two brothers and the 15-year-old who were  
22 friends of my family because I have offended them. If I ever  
23 hurt them with my words or with my actions, I did not mean to  
24 do it. I am apologizing from the bottom of my heart to all of  
25 them.

1           And if I have violated any laws of this world, of the  
2 laws of this world, especially having violated the laws of the  
3 United States, I cannot take back what I did. I cannot go  
4 back to the past. So I would like to ask forgiveness of my  
5 husband and of my family who are here in support of him and  
6 also of my dear mother and Mr. Alberto, the one who gave me  
7 life. I am sure, Mom, that you're here with me listening to  
8 what I'm saying. I remember when you were there behind me two  
9 years ago every time I came back.

10           Your Honor, in the name of the Lord in heaven, I  
11 would like you to forgive me. I am a woman, and I am a human  
12 being. Please have mercy on me, your Honor. May the Lord  
13 also hear you. I am very repentant because we were -- when we  
14 were out in the street with my husband, we are destitute now.  
15 Me and my husband are destitute.

16           I also would like to talk a little bit about my  
17 personal life when I was a little child. Thank you, Mom, for  
18 doing everything within your power to do the best for me when  
19 you were pregnant just like my attorney said before. My mom  
20 was forced to drink medication so that she would abort me  
21 three times.

22           My mother, she's a very humane woman, a woman, a  
23 woman who is also a friend. In fact, I used to call her "my  
24 perfect mother." Whatever she gave me when I was little along  
25 with my brother Marcelino when he was little as well, all we

1 had for food was tortillas and salt and chili pepper,  
2 sometimes beans and sometimes fish from the river. I didn't  
3 have clothing.

4 When I was six years old or five, we were by the  
5 river with my mom. And I looked -- took a look at her back,  
6 and she had a lot of markings, marks. And I asked, "Mom, what  
7 are those marks for?"

8 And she said, "They're because I refused to take the  
9 medication."

10 Like I said before, I didn't have any clothing. I  
11 didn't have a bed. I didn't have a place to stay. We were  
12 homeless. We lived up on the mountains; no TV, no radio, no  
13 school but love from my mother. Did we ever have love from my  
14 mother, me and my brother.

15 When my mother married Don Alberto, both children,  
16 both of us were present. That is a reason why at the age of  
17 13 I joined a convent because I didn't have a bloomer. I  
18 didn't have a bra. I didn't have any shoes. I had no  
19 schooling. And I started, and I was taught the Bible, Jesus,  
20 about Jesus. And we all get a call from Jesus. And we all  
21 get a specific mission from Jesus, how to serve God and his  
22 people as well.

23 And I was in the convent for about 19 years with the  
24 San Franciscan school sisters. And I did my mission serving  
25 the Guatemalan community serving different groups, attending



1 to the needs of the people, to the family. And then I came to  
2 the United States as a nun. And then I worked in Wisconsin  
3 helping to feed the elderly. The great mistake I made, the  
4 great mistake that I had made was accepting, acquiescing to  
5 people that asked me for a favor.

6 I could lie to you all in here and tell you things,  
7 but there's a god, a god that is so great, and I do fear that  
8 god. I could just justify myself here, but I feel humbled. I  
9 feel humbled. I feel ashamed. I have asked the Lord -- in  
10 2015, I had a major accident, and I have asked him, "How come  
11 you didn't take me?" How come he choose to take that who was  
12 seated next to me? So then when the people started coming  
13 over, when the families started to come, that is why you can  
14 have a band on your family.

15 It was not easy either with the difficulties I was  
16 having in terms of my ability to walk and my health and my  
17 disease. 24 hours a day, seven days a week, I get a call from  
18 Immigration and also from ICE when other people were there. I  
19 bought food, and I bought clothing, and I took people to the  
20 hospital. Sometimes I was sick myself. I tried to do the  
21 best I could as a woman and as a human being, and amongst all  
22 of that, I committed my mistake.

23 Your Honor, please have mercy on me, your Honor.  
24 Perhaps I don't deserve it because hurting a person is as if I  
25 were doing this to God. That's why he is my only witness.

1 And he also allowed for me to continue to live after my  
2 accident. It's impossible to understand. Two people seated  
3 on the same chair: One lives and one dies. That is because  
4 there is a purpose for each and every person.

5           During the last 25 months which I have spent in jail,  
6 it hasn't been easy. When I was at the MCC, we were eating  
7 food with cockroaches. There was a lot of mold in my room.  
8 It was very difficult for me to be able to breathe and also  
9 because of my condition. Not only that, the bread that they  
10 were feeding us was also moldy. It happened to me twice. I  
11 got sick twice. Once, I was really sick at night throwing up.  
12 And the other time, I remember it was a turkey sandwich. And  
13 in 2019, we were eating food from 2018.

14           And he would tell us, he would tell us, that  
15 officer -- I don't know what his name is. I could say this in  
16 English because I don't know how to say this in Spanish.

17           THE DEFENDANT (in English): "I don't give a shit  
18 about you." He said it like this. "I don't give a shit about  
19 my kids at home. Why should I give a shit about you?" That's  
20 what he told us.

21           THE DEFENDANT (through the interpreter): And the  
22 saddest part is that Officer Gutierrez, when I fell down --  
23 oh, excuse me. When I --

24           THE DEFENDANT (in English): I poop in my underwear.

25           THE DEFENDANT (through the interpreter): I defecated

1 in my panties. He said, "As a reward, you just earned an  
2 extra lunch."

3 It is very tough to be in jail especially when you  
4 see your own case on television. The price you pay is double  
5 there. It's double. They tell you, "You stole a child. You  
6 kidnapped a child. You killed a child." That's what they  
7 said to my face. And you have to believe everything there.  
8 And everybody's laughing. Many times they don't call me by  
9 name -- by my name.

10 THE DEFENDANT (in English): Pussy, fucking --

11 INTERPRETER MENDOZA: The last was in the English  
12 language.

13 THE DEFENDANT (through the interpreter): And some  
14 people, they call them snitches. I don't know what they  
15 commonly call that. And I Google my case outside -- they  
16 Google my case outside. They said, "Now let your fucking  
17 Jesus save you. I hope you will rot in jail."

18 That's why, your Honor -- I don't know. If you could  
19 put something on my ankles or something so that I could go  
20 home because it's so hard. The bed I sleep on is made of  
21 cement. Sometimes it's metal, but sometimes the sponge is not  
22 good so it gets damaged, and my back peels off. Being in jail  
23 is torture mentally, physically, emotionally. And as far as  
24 religion is concerned, you cannot pray. You're unable to pray  
25 because it's a very loud environment almost 24 hours a day.

1           Phone calls are extremely expensive. It's \$10 for  
2 each minute to Guatemala. And to call here locally, \$5 for 15  
3 minutes. There are a lot of things, but I just wanted to  
4 mention a few.

5           The place where I'm staying right now, there are 12  
6 people there, and it's as small as this area here. That's  
7 where we eat. That's where we shit. There is one TV set.  
8 There's a lot of humiliation going on in jail, especially if  
9 you're older, if you have physical limitations like myself.

10           In the name of the Lord, your Honor, and I'm asking  
11 for the forgiveness of all the people involved and the aunts  
12 and uncles and the cousins and the two brothers and the  
13 15-year-old, however many times I hurt you, please forgive me.  
14 Sometimes I think that if I were not in jail, my mother would  
15 still be with me. I feel so bad because whenever I needed my  
16 mom, she was always there for me, and I couldn't be there when  
17 she needed me the most.

18           I wanted to kill myself when I was at the MCC because  
19 the majority of the people there are black, and there were  
20 very few other people. I'm talking about the majority of the  
21 officers that work there for the most part, they're black.  
22 And oftentimes they wouldn't say a word to me. For the most  
23 part, they would not address me or say a single word to me.

24           They have told me that whenever I am free and I am  
25 sent out, they are going to find me in the streets to beat me

1 up, particularly in terms of the children. I don't know what  
2 has happened to them or what has continued to happen to them  
3 or what's going on with them now. They don't understand.  
4 They don't know what's going on with those grownups. They're  
5 all part of my family. All of them are my family.

6 Your Honor, please have mercy on me. I feel like I  
7 am perhaps the most sinful woman, so forgive me, your Honor.

8 THE COURT: All right. Thank you, Ms. Malinek. Can  
9 you replace your mask, please?

10 Ms. Malinek, federal law tells me what I have to  
11 consider in picking a sentence for you. I do have to consider  
12 the nature and circumstances of the crime that you committed.  
13 I have to consider your personal history and characteristics.  
14 And then I have to take into account certain goals of  
15 sentencing that Congress has set out for all judges.

16 I have to promote respect for the law. The sentence  
17 ought to reflect just punishment, and the sentence also must  
18 reflect the seriousness of the crime. I have to provide for  
19 the protection of the public. I have to provide for what in  
20 the law we call deterrence. And there's two forms of this in  
21 the law. One is specific deterrence, meaning picking a  
22 sentence that is high enough to encourage you to not commit  
23 another crime. And then there's general deterrence, which is  
24 sending a message out generally to the community to not commit  
25 this kind of crime.

1           I do have to consider medical needs, rehabilitative  
2 needs, vocational needs. Those needs can only push a sentence  
3 down. It can never be a reason to push a sentence up. I do  
4 have to consider the advice of the sentencing guidelines. And  
5 then lastly, I need to avoid unwarranted disparities which  
6 means that I ought to treat you the same way that I treat any  
7 other defendant who has committed the same kind of crime that  
8 you committed and has the same kind of personal history and  
9 characteristics that you do. And then there is a  
10 consideration to restitution which we've discussed today.

11           So I have to balance all of those goals and factors  
12 of sentencing and pick a sentence that is enough but not more  
13 than necessary to satisfy those goals.

14           All right. So the first factor is the nature and  
15 circumstances of the crime. And I do hope you realize that  
16 forced labor is a horrific crime. It inflicts an awful  
17 emotional and physical toll on the victims. The victims here,  
18 they lived and labored under the constant threat of being  
19 arrested and losing their freedom, the threat of deportation  
20 which means, of course, an enormously impactful disruption on  
21 their lives and the lives of their children.

22           And for Victim 2 as well as Victims 3 and 4, there  
23 was also the threat that they would be deported while their  
24 children stayed here in the United States, so a threat of  
25 separation from their children. And that threat was proven in

1 the statements of Victims 2, 3, and 4.

2 The victims also described in their grand jury  
3 statements consistently that you did verbally abuse them and  
4 then ruled the household like a tyrant, constantly adding to  
5 their debt by imposing these charges ranging from hundreds of  
6 dollars for fraudulent identification documents, for monthly  
7 rent -- if you can call it that given the dozens of occupants  
8 in the home -- as well as exorbitant charges for daily charges  
9 of \$10 to clean, as a cleaning fee for the house and  
10 necessities like transportation and then charging exorbitant  
11 rates like \$50 for a ride no matter where it was, all of these  
12 charges just unceasingly adding up, adding emotional strain.

13 And these victims believed that it would take years,  
14 if ever, for them to pay it back in order for them to be able  
15 to leave and move on. So the emotional toll that it placed on  
16 these victims which translated into the physical toll because  
17 they had to work in order to avoid deportation -- and that's  
18 why it's a forced labor case -- did cause grave harm.

19 I don't believe that your motive was that you said  
20 yes to too many people. That does not ring true because of  
21 what you charged them. And so the motive, I'm afraid, is the  
22 motive for many crimes, which is greed. All of this was  
23 proven by the under-oath grand jury statements. They are  
24 consistent in describing the threats of deportation and the  
25 charges that added up as well as supported by the written debt

1 ledgers that the government recovered as well.

2           The conditions in which they lived, I don't need to  
3 find that there was outright squalor. I think Mr. Rascia  
4 understandably acknowledged that given the sheer number of  
5 people in the house, the conditions would have been cramped  
6 and stifling no matter what.

7           Victim 1 described at one time there was around 12  
8 people living in one room. Victim 2 described that there was  
9 something like 45 persons living in the house at one time  
10 including 20 in the basement. Victim 3 also estimated that  
11 there was 22 individuals living in the basement, all sharing  
12 one bathroom. And Victim 5 in his grand jury statement at  
13 Page 5 described how there was one month where he could not  
14 pay the rent, and you prohibited him from using the bathroom  
15 unless he paid. And he had to borrow money in order to use  
16 the bathroom, just a basic living necessity. And that's the  
17 kind of credible detail that I think it does ring true.

18           And then on the day of the arrest, the agents found  
19 22 individuals living in the basement and 33 total. So there  
20 isn't any doubt that the conditions would be enormously  
21 cramped. And when one bathroom is shared by over 20  
22 individuals, it had to amount to an enormously difficult  
23 living situation.

24           This crime also did have impact on the children. I  
25 think as I described earlier, even though for formal United



1 States Sentencing Guidelines purposes, children are not  
2 victims of the crime for those purposes, in reality given that  
3 I have to consider the nature and circumstances of the crime  
4 more broadly, they were victims.

5           Victim 1 at age 15 had to work 40 hours a week  
6 standing up in a cold sandwich factory because you told her  
7 father that he needed to have her work to pay off the debt  
8 faster, and you convinced him to send her to work. So in a  
9 very real plain English sense, she was a victim of this crime.

10           And then there was the tragic injury suffered by  
11 Victim 8 and Victim 9's two-year-old child earlier in 2019  
12 whose head was burned by the cup of boiling water. To  
13 disallow the child's parents from bringing this toddler to the  
14 hospital made this child a victim of the crime as well. And  
15 Victim 8 credibly testified that you told Victim 8 that it  
16 would be that parent's, her fault, that you would tell the  
17 authorities that it was her fault which would naturally cause  
18 separation of the child from Victim 8 and Victim 9. There's  
19 no other way to say it: That is a cruel threat to level  
20 against any parent.

21           And the injury took weeks to recover from. The PSR  
22 describes that when the agents -- there's at least one FBI  
23 agent who saw the discoloration and scarring near the hairline  
24 of this child weeks later when the case was brought down. So  
25 children too were victims of this crime.

1           I also have to take into account the fact that you  
2 also obtained fraudulent identification documents as part of  
3 the crime. So it wasn't just the forced labor which is, of  
4 course, serious enough, but there was another entire aspect of  
5 this crime involving fraudulent identification documents. So  
6 it is impossible to say that the motive was simply to help  
7 others establish a life here. It was to rack up charges and  
8 debts that they would have to pay you.

9           Your sister testified in your support and, of course,  
10 that's only natural, but it is easy to compare the very  
11 different treatment that she received than what the victims  
12 received. So I don't think that's very much mitigation. And  
13 as the government pointed out, even with her, you did make her  
14 sign a document that said she can't move until the debt is  
15 paid.

16           You did plead guilty. I do believe you've accepted  
17 responsibility for the crime although, as I said, the motive  
18 is not just an inability to say no to people. That was not  
19 the motive for this crime. You have agreed to pay restitution  
20 and to take steps to try to pay that sooner rather than later,  
21 and I take that into account as well.

22           You have no criminal history, and that is a fact in  
23 your favor as well. I will note, though, that this crime did  
24 take place over at least four years as to Victim No. 10. So  
25 when someone does not have a criminal history, the absence of

1 that criminal history is much more mitigating, it's more  
2 persuasive when the defendant then commits a one-time error of  
3 judgment because it shows that it truly is an aberration in  
4 their lives, but this crime did take place repeatedly and over  
5 months and, for Victim 10, years. And for all we know, it  
6 would have continued past March 2019. It was the government  
7 that intervened after hearing about the report from the  
8 factory supervisor. So it could have gone on indefinitely.

9 With regard to your personal history and  
10 characteristics going beyond the absence of criminal history,  
11 your upbringing was just in extreme poverty. There's no doubt  
12 about that, including an abusive environment. So the fact  
13 that you were able to join a convent and then start serving  
14 the public is to your credit. And you did spend almost two  
15 decades on that mission in Wisconsin. So I'll take that into  
16 account, but there is otherwise no direct connection between  
17 the enormously difficult childhood, if you can call it that,  
18 that you had and the crime itself. So while again, I'll take  
19 it into account, there isn't that kind of direct connection  
20 that would mitigate it powerfully.

21 Family separation, of course, I take that into  
22 account. That is the most difficult part of any sentencing,  
23 to separate you from your loved ones and to separate your  
24 loved ones from you including your husband, your siblings, and  
25 your extended family. And it is tragic that your parents

1 passed while you were detained. That does happen from time to  
2 time with detained defendants. And as much as the Court, as  
3 much as the marshal service would like to accommodate some  
4 kind of furlough, it's so very difficult to the point of  
5 impossible with pretrial detention and certainly during the  
6 pandemic. So there was nothing anyone really could do about  
7 that.

8           It does highlight, and I take it into account, the  
9 impact of detention on family relationships. You mentioned  
10 how expensive it is to access the telephone. And it's true,  
11 that's something that Congress and the criminal justice system  
12 have been working on for a long time and still has not quite  
13 solved. The FTC has gotten involved -- pardon me, the SEC has  
14 gotten involved, but that still has not been solved. So I  
15 understand that detention in prison does mean a substantial  
16 restriction on being able to communicate with family.

17           There are many aggravating factors here, though, so I  
18 have to take that into account too.

19           Your mental health is a mitigating factor. There is  
20 no doubt that given the diagnoses of anxiety and depression  
21 that prison is harder for you than it is for a defendant who  
22 does not suffer from those mental disorders. So I will take  
23 that into account. I understand that when every day of  
24 custody for someone who suffers from those disorders is more  
25 difficult. It is more intense than for those who don't.

1           Your physical -- the physical disability, the  
2   mobility difficulty also impacts your prison life as well, so  
3   I'll take that into account too.

4           In terms of the pandemic, essentially for almost a  
5   year now, I have been giving a discount on sentences because  
6   pretrial detention and Bureau of Prisons life is much more  
7   difficult during the pandemic. You also have the special risk  
8   factor in light of your diabetes, so I'll take that into  
9   account too.

10          The other conditions that you've discussed about the  
11   MCC and Livingston in terms of both the physical conditions  
12   and how you allege you were treated, I cannot make findings on  
13   that based on what you have told me. When issues like that  
14   arise in a prosecution, defendants bring those to the Court --  
15   well, they first have to file grievances with the detention  
16   facility. And when complaints are made contemporaneous, you  
17   know, at the same time, that the alleged events or misconduct  
18   is happening, then courts can try to solve that. We have not  
19   litigated here these conditions, so I cannot find and I do not  
20   find that those things occurred.

21          I also too have worked on pretrial detention issues  
22   with the MCC warden, and he's extremely responsive to  
23   complaints. So that, I'm going to set aside and not consider  
24   in your favor.

25          General deterrence, I do have to take general

1 deterrence into account. There is a debate that has occurred  
2 on whether long prison sentences have a general deterrence  
3 effect. And many of the studies that argue that general  
4 deterrence does not have an effect, really what they're saying  
5 is that they believe that the certainty of punishment has more  
6 of a general deterrence effect than long prison sentences, but  
7 general deterrence still does have an effect. So I do believe  
8 general deterrence in the whole has an effect.

9           And in particular, in these kind of crimes where it  
10 is very difficult to detect, it is important to then set the  
11 sentences higher. Like, the more difficult it is to detect  
12 the crime, the higher the sentences have to be when they are  
13 detected in order to send a general deterrence message out  
14 that these kinds of crimes must stop and they -- and that they  
15 will be punished severely if they are detected. So I have to  
16 send a stern and loud message that there must not be human  
17 trafficking.

18           All right. So balancing all of those goals and  
19 factors and in order to reflect the seriousness of the crime,  
20 provide for general deterrence, I believe the appropriate  
21 sentence is a sentence of 78 months of imprisonment. No fine  
22 will be imposed because of the limited ability to pay after  
23 restitution is paid. Restitution will be entered pursuant to  
24 the spreadsheet that was circulated amongst the parties before  
25 the sentencing. The preliminary order of forfeiture, that

1 motion at docket entry 69 is granted.

2 For the supervised release, I believe a two-year term  
3 at this point is appropriate to accommodate the reintegration  
4 back to society and the recidivism risk, although that is a  
5 modest risk. I do have to impose a \$100 special assessment in  
6 light of the felony conviction.

7 You do have the right to appeal the sentence. If  
8 you're going to appeal, you must file a notice of appeal  
9 within 14 days of entry of judgment on the docket. If you're  
10 not able to afford the fees or costs of appeal, then you can  
11 ask to have them waived and you won't have to pay them. If  
12 you're not able to afford an attorney on appeal, then you can  
13 ask to have one appointed, and one will be appointed free of  
14 charge.

15 Is there a facility recommendation?

16 MR. RASCIA: Pekin, your Honor.

17 THE COURT: All right. We'll recommend Pekin.

18 I'm going to also recommend mental health treatment.

19 MR. RASCIA: Judge, apparently I misspoke about  
20 Pekin. Would it be appropriate if I sent an email to your  
21 courtroom deputy tomorrow? I need to have a further  
22 discussion with Ms. Malinek about that.

23 THE COURT: Yes, that's fine. And just make sure to  
24 copy the government on the email.

25 MR. RASCIA: I will.

1 THE COURT: All right. Is there anything else for  
2 the government?

3 MR. PARENTE: No, your Honor.

4 THE COURT: All right. Probation?

5 THE PROBATION OFFICER: No, your Honor.

6 THE COURT: Are there -- there are other counts to  
7 dismiss, though.

8 MR. PARENTE: There are, Judge. I'd move to dismiss  
9 counts, I believe it's 1 through 9.

10 THE COURT: All right. All the other counts are  
11 dismissed.

12 All right. Mr. Rascia, anything else?

13 MR. RASCIA: No, Judge.

14 THE COURT: All right. We are adjourned.

15 (Proceedings adjourned at 3:59 p.m.)  
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C E R T I F I C A T E

I, Judith A. Walsh, do hereby certify that the foregoing is a complete, true, and accurate transcript of the proceedings had in the above-entitled case before the Honorable EDMOND E. CHANG, one of the judges of said court, at Chicago, Illinois, on April 19, 2021.

/s/ Judith A. Walsh, CSR, RDR, F/CRR July 12, 2021

Official Court Reporter

United States District Court

Northern District of Illinois

Eastern Division